



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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August 29, 2019

Nicole Cunningham
Planning, Policy & Quality Unit
Division of Medicaid & Medical Assistance
1901 N. DuPont Hwy.
P.O. Box 906
New Castle, DE 19720-0906

RE: DSS Proposed Regulation on Documentation of State Residency [23 DE Reg. 83 (August 1, 2019)]

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHHS)/Division of Social Services (DSS) proposal to amend sections of the DSS Manual regarding state residency documentation requirements for Medicaid. Under federal regulations, each state must provide Medicaid to eligible residents. In addition, evidence of immigration status may not be used to determine that an individual is not a resident. The proposed changes to the DSS Manual are meant to bring DSS policy in line with the relevant federal regulations (42 C.F.R. § 435.403 and 42 C.F.R. § 435.956(c)(2)). Council **endorses** the proposed regulations and would like to share the following observations.

First, in Sections 14110.6 and 14110.7, the citations to the federal regulations are incorrect. Instead of referencing 42 C.F.R. § 438.403, it should reference 42 C.F.R. § 435.403.

Second, in Section 14110.9, the citation to the federal regulation is also incorrect. Instead of referencing 42 C.F.R. § 435.503, it should reference 42 C.F.R. § 435.403.

Third, in Section 14100.8(c), Council asks that DSS clarify that for an institutionalized individual who is neither married nor emancipated, the state of residence is the state of residence of the parent/legal guardian at the time of placement; OR the current state of residence of the parent/legal guardian>. It would be clearer if DSS adds another "or" between the first two bullet points.

Fourth, in Section 14100.9(c), Council asks that DSS clarify that for any institutionalized individual who became incapable of indicating intent before age 21, the state of residence is that of the parent applying for

Medicaid on behalf of the individual; OR the state of residence of the parent/legal guardian at the time of placement. Again, it would be clearer if DSS adds another “or” between the first two bullet points. Fifth, in Section 14110.11(b) on institutionalized individuals capable of indicating intent, DSS should clarify whether this policy only applies to institutionalized individuals age 21 or over. DSS should also provide a citation to the applicable federal regulation.

Thank you for your consideration of our endorsement and comments. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF:kpc